

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LINDA MCGARR,

ANSWER

07 Civ. 9488 (KMK)

Plaintiff,

-against-

CITY OF PEEKSKILL, WESTCHESTER COUNTY,
DAVID LEVINE, THOMAS MCINTYRE,
WALTER BROVARSKI, EUGENE TUMOLO,
JOHN AND JANE DOE SUPERVISORS,
DANIEL STEPHENS, LOUIS ROH, and
MILLARD HYLAND,

Defendants.
-----X

For the answer to the complaint of the plaintiff in the above entitled case,
defendant Daniel Stephens, by his attorneys, SANTANGELO RANDAZZO & MANGONE LLP,
says:

1. Defendant denies knowledge or information sufficient to form a belief as
to each and every allegation contained in paragraph "1" of plaintiff's complaint.

2. Defendant denies knowledge or information sufficient to form a belief as
to each and every allegation contained in paragraph "2" of plaintiff's complaint.

3. Defendant denies knowledge or information sufficient to form a belief as
to each and every allegation contained in paragraph "3" of plaintiff's complaint.

4. Defendant denies knowledge or information sufficient to form a belief as
~~to each and every allegation contained in paragraph "4" of plaintiff's complaint except admit that~~

new DNA testing established that the semen found on A.C.'s body came from Cunningham, who subsequently confessed, pled guilty to, and was convicted of the crime.

5. Defendant denies the allegations contained in paragraph "5" of plaintiff's complaint.

6. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "6" of plaintiff's complaint.

7. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "7" of plaintiff's complaint.

8. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "8" of plaintiff's complaint.

9. Defendant denies the allegations contained in paragraph "9" of plaintiff's complaint.

JURISDICTION

10. The allegations contained in paragraph "10" of the complaint constitute conclusions of law to which defendant makes no answer except to demand strict proof thereof and respectfully refers any and all questions of law to this Honorable Court.

VENUE

11. The allegations contained in paragraph "11" of the complaint constitute conclusions of law to which defendant makes no answer except to demand strict proof thereof and respectfully refers any and all questions of law to this Honorable Court.

JURY DEMAND

12. No response required.

PARTIES

13. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "13" of plaintiff's complaint.

14. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "14" of plaintiff's complaint.

15. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "15" of plaintiff's complaint.

16. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "16" of plaintiff's complaint.

17. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "17" of plaintiff's complaint.

18. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "18" of plaintiff's complaint.

19. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "19" of plaintiff's complaint.

20. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "20" of plaintiff's complaint.

21. Defendant admits the allegations contained in paragraph "21" of the plaintiff's complaint.

22. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "22" of plaintiff's complaint.

23. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "23" of plaintiff's complaint.

FACTS

The Crime and Initial Investigation

24. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "24" of plaintiff's complaint.

25. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "25" of plaintiff's complaint.

26. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "26" of plaintiff's complaint.

27. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "27" of plaintiff's complaint.

28. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "28" of plaintiff's complaint.

29. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "29" of plaintiff's complaint.

30. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "30" of plaintiff's complaint.

31. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "31" of plaintiff's complaint.

32. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "32" of plaintiff's complaint.

33. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “33” of plaintiff’s complaint.

34. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “34” of plaintiff’s complaint.

35. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “35” of plaintiff’s complaint.

36. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “36” of plaintiff’s complaint.

37. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “37” of plaintiff’s complaint.

Peekskill Police Focus on Peekskill High School for Suspects

38. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “38” of plaintiff’s complaint.

39. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “39” of plaintiff’s complaint.

40. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “40” of plaintiff’s complaint.

41. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “41” of plaintiff’s complaint.

42. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “42” of plaintiff’s complaint.

43. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “43” of plaintiff’s complaint.

The PPD Defendants Conceal Material, Exculpatory and Impeachment Evidence

44. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “44” of plaintiff’s complaint.

45. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “45” of plaintiff’s complaint.

46. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “46” of plaintiff’s complaint.

47. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “47” of plaintiff’s complaint.

The Investigation Focuses on Jeffrey Deskovic

48. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “48” of plaintiff’s complaint.

49. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “49” of plaintiff’s complaint.

50. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “50” of plaintiff’s complaint.

51. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “51” of plaintiff’s complaint.

52. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “52” of plaintiff’s complaint.

PPD Investigators Exploit Jeffrey’s Emotional and Psychological Vulnerabilities

53. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “53” of plaintiff’s complaint.

54. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “54” of plaintiff’s complaint.

55. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “55” of plaintiff’s complaint.

56. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “56” of plaintiff’s complaint.

57. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “57” of plaintiff’s complaint.

58. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “58” of plaintiff’s complaint.

59. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “59” of plaintiff’s complaint.

60. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “60” of plaintiff’s complaint.

61. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “61” of plaintiff’s complaint.

62. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “62” of plaintiff’s complaint.

63. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “63” of plaintiff’s complaint.

64. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “64” of plaintiff’s complaint.

65. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph “65” of plaintiff’s complaint.

66. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “66” of plaintiff’s complaint.

67. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “67” of plaintiff’s complaint.

68. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “68” of plaintiff’s complaint.

Jeffrey Obtains Legal Counsel- Which the Defendants Disregard

69. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “69” of plaintiff’s complaint.

70. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “70” of plaintiff’s complaint.

71. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “71” of plaintiff’s complaint.

72. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “72” of plaintiff’s complaint.

73. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “73” of plaintiff’s complaint.

74. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “74” of plaintiff’s complaint.

75. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “75” of plaintiff’s complaint.

76. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph “76” of plaintiff’s complaint and refer all questions of law to this Honorable Court.

The PPD Defendants Conceal Their Fifth Amendment Violations

77. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “77” of plaintiff’s complaint.

78. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “78” of plaintiff’s complaint and refer all questions of law to this Honorable Court.

79. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “79” of plaintiff’s complaint.

80. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “80” of plaintiff’s complaint.

The Police Question Jeffrey and Fabricate Additional Evidence of Guilt

81. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “81” of plaintiff’s complaint.

82. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “82” of plaintiff’s complaint.

83. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “83” of plaintiff’s complaint.

84. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “84” of plaintiff’s complaint.

The Police Plan to Procure Jeffrey's Confession

85. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "85" of plaintiff's complaint.

86. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "86" of plaintiff's complaint.

87. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "87" of plaintiff's complaint except admit that defendant Stephens performed polygraph "testing" out of a private, non-law enforcement office in Brewster, New York.

88. Defendant denies the allegations contained in paragraph "88" of the plaintiff's complaint.

89. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "89" of plaintiff's complaint.

The Coerced "Confession"

90. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "90" of plaintiff's complaint.

91. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "91" of plaintiff's complaint.

92. Defendant admits the allegations contained in paragraph "92" of the plaintiff's complaint except deny the allegation that Stephens was not identified as a law enforcement officer.

93. Defendant admits the allegations contained in paragraph "93" of the plaintiff's complaint and defendants deny knowledge or information sufficient to form a belief as

to whether plaintiff had eaten prior to arriving in Brewster.

94. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "94" of plaintiff's complaint.

95. Defendant denies the allegations contained in paragraph "95" of the plaintiff's complaint.

96. Defendant admits the allegations contained in paragraph "96" of the plaintiff's complaint.

97. Defendant admits the allegations contained in paragraph "97" of the plaintiff's complaint that Stephens began to question Jeffrey concerning the rape and murder of A.C., deny the allegations that Stephens provided and/or suggested details to plaintiff and defendants deny knowledge or information sufficient to form a belief as to the remaining allegations.

98. Defendant denies the allegations contained in paragraph "98" of the plaintiff's complaint.

99. Defendant denies the allegations contained in paragraph "99" of the plaintiff's complaint.

100. Defendant denies the allegations contained in paragraph "100" of the plaintiff's complaint except admit the allegations that Stephens left the room.

101. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "101" of plaintiff's complaint.

102. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "102" of plaintiff's complaint.

103. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "103" of plaintiff's complaint.

104. Defendant denies the allegations contained in paragraph "104" of plaintiff's complaint.

105. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "105" of plaintiff's complaint.

106. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "106" of plaintiff's complaint.

107. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "107" of plaintiff's complaint.

108. Defendant denies the allegations contained in paragraph "108" of the plaintiff's complaint.

**Police Coerced, Fabricated, and Concealed Exculpatory Evidence Concerning Additional
Investigation of Jeffrey Deskovic**

109. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "109" of plaintiff's complaint.

110. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "110" of plaintiff's complaint.

111. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "111" of plaintiff's complaint.

**Jeffrey's Indictment Is Procured With Fabrications and Concealment of Material,
Exculpatory and Impeachment Evidence**

112. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "112" of plaintiff's complaint.

113. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "113" of plaintiff's complaint.

114. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "114" of plaintiff's complaint.

115. Defendant denies the allegations contained in paragraph "115" of the plaintiff's complaint.

DNA Evidence Exonerates Jeffrey- But the Prosecution Continues

116. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "116" of plaintiff's complaint.

117. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "117" of plaintiff's complaint.

118. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "118" of plaintiff's complaint.

119. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "119" of plaintiff's complaint.

120. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "120" of plaintiff's complaint.

121. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "121" of plaintiff's complaint.

122. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "122" of plaintiff's complaint.

123. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "123" of plaintiff's complaint.

124. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “124” of plaintiff’s complaint.

125. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “125” of plaintiff’s complaint.

Prosecutorial and Police Misconduct Deprive Jeffrey of a Fair Trial

126. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “126” of plaintiff’s complaint.

127. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “127” of plaintiff’s complaint.

128. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “128” of plaintiff’s complaint.

129. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “129” of plaintiff’s complaint.

130. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “130” of plaintiff’s complaint.

131. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “131” of plaintiff’s complaint.

Mr. Deskovic’s Incarceration and Efforts to Prove His Innocence

132. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “132” of plaintiff’s complaint except admit the allegation that plaintiff was convicted and sentenced to fifteen years to life in prison.

133. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “133” of plaintiff’s complaint.

134. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “134” of plaintiff’s complaint.

135. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “135” of plaintiff’s complaint.

The Real Killer Is Identified and Jeffrey is Exonerated

136. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “136” of plaintiff’s complaint.

137. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “137” of plaintiff’s complaint except admit to the allegation that Mr. Cunningham pleaded guilty.

138. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “138” of plaintiff’s complaint.

139. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “139” of plaintiff’s complaint except admit the allegation that plaintiff was released from prison.

140. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “140” of plaintiff’s complaint.

Policies and Customs of the PPD, the Westchester County District Attorney’s Office, and the Westchester County Medical Examiner’s Office

141. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “141” of plaintiff’s complaint.

142. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph “142” of plaintiff’s complaint.

143. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "143" of plaintiff's complaint.

144. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "144" of plaintiff's complaint.

145. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "145" of plaintiff's complaint.

146. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "146" of plaintiff's complaint.

147. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "147" of plaintiff's complaint.

148. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "148" of plaintiff's complaint.

149. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "149" of plaintiff's complaint.

150. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "150" of plaintiff's complaint.

151. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "151" of plaintiff's complaint.

152. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "152" of plaintiff's complaint.

DAMAGES

153. Defendant denies the allegations contained in paragraph "153" of the plaintiff's complaint.

154. Defendant denies the allegations contained in paragraph "154" of the plaintiff's complaint.

155. Defendant denies the allegations contained in paragraph "155" of the plaintiff's complaint.

156. Defendant denies the allegations contained in paragraph "156" of the plaintiff's complaint.

ANSWERING COUNT I

42 U.S.C. § 1983 First Amendment and Fourteenth Amendment Due Process Clause Right to Familial Association Against All Defendants

157. Defendant repeats, reiterates and realleges each and every answer in the foregoing paragraphs with the same force and effect as if set forth more fully at length herein.

158. The allegation contained in paragraph "158" of plaintiff's complaint constitute conclusions of law to which no response is required.

159. The allegation contained in paragraph "159" of plaintiff's complaint constitute conclusions of law to which no response is required.

160. The allegation contained in paragraph "160" of plaintiff's complaint constitute conclusions of law to which no response is required.

161. Defendant denies the allegations contained in paragraph "161" of the plaintiff's complaint.

162. Defendant denies the allegations contained in paragraph "162" of the plaintiff's complaint.

~~163. Defendant denies the allegations contained in paragraph "163" of the~~

plaintiff's complaint.

164. Defendant denies the allegations contained in paragraph "164" of the plaintiff's complaint.

165. Defendant denies the allegations contained in paragraph "165" of the plaintiff's complaint.

166. Defendant denies the allegations contained in paragraph "166" of the plaintiff's complaint.

167. Defendant denies the allegations contained in paragraph "167" of the plaintiff's complaint.

168. Defendant denies the allegations contained in paragraph "168" of the plaintiff's complaint.

169. Defendant denies the allegations contained in paragraph "169" of the plaintiff's complaint.

170. Defendant denies the allegations contained in paragraph "170" of the plaintiff's complaint.

171. Defendant denies the allegations contained in paragraph "171" of the plaintiff's complaint.

172. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "172" of plaintiff's complaint.

173. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "173" of plaintiff's complaint.

174. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "174" of plaintiff's complaint.

175. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "175" of plaintiff's complaint.

176. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "176" of plaintiff's complaint.

177. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "177" of plaintiff's complaint.

178. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "178" of plaintiff's complaint.

179. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "179" of plaintiff's complaint.

180. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "180" of plaintiff's complaint.

181. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "181" of plaintiff's complaint.

182. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "182" of plaintiff's complaint.

183. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "183" of plaintiff's complaint.

184. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "184" of plaintiff's complaint.

185. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "185" of plaintiff's complaint.

186. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "186" of plaintiff's complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

187. At all times relevant hereto, defendant Stephens acted in good faith and took appropriate action in the discharge of his official duties.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

188. Defendant Stephens to the extent he is sued in his individual capacity, is entitled to qualified immunity since at all times he acted in good faith in the discharge of his job duties and his conduct did not violate any clearly established constitutional or statutory rights which a reasonable person would have known.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

189. Defendant Stephens, at all relevant times acted in accordance with all laws, rules and regulations and pursuant to his statutory authority.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

190. Any conduct which is alleged by plaintiff is *de minimis* and unsubstantial and as such the allegations fail to establish a claim under U.S.C. Section 1983.

AS AND FOR AN FIFTH AFFIRMATIVE DEFENSE

191. The complaint on file herein fails to state a claim upon which relief can be granted.

AS FOR A SIXTH AFFIRMATIVE DEFENSE

192. Any harm which came to plaintiff was a direct and proximate result to plaintiff's own actions.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

193. That plaintiff's claim or damages, if any, are to be strictly governed by the Civil Rights Act of 1991 (42 USC Section 1981a).

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

194. Plaintiff's claims are barred by the applicable statute of limitations.

W H E R E F O R E, the defendants pray judgment that the complaint of the plaintiff be dismissed, together with the costs and disbursements of this action and attorney's fees awarded to the defendant.

Dated: Hawthorne, New York
December 4, 2007

Respectfully submitted,

SANTANGELO RANDAZZO & MANGONE LLP

By: 

James A. Randazzo (0156)
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(914) 741-2929

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~~MIRANDA SOKOLOFF-SAMBURSKY-SLOANE & VERVENIOTIS, LLP~~
Attorney for Defendants-City of Peekskill, David Levine,

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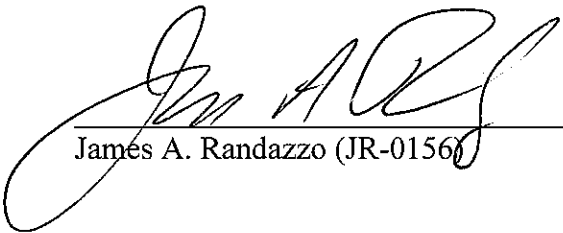
CERTIFICATE OF SERVICE

I, JAMES A. RANDAZZO, hereby certify that on December 4, 2007, I served the within ANSWER upon all parties, by Electronic Case Filing, the address as provided to defendant by notification from this Court:

TO: EMERY CELLI BRINCKERHOFF & ABADY LLP
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James A. Randazzo (JR-0156)